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April 16, 2015

Rep. Greg Davids  
House Committee on Taxes  
Minnesota House of Representatives

Re: HF 2182 Taxation of Vapor Products

Chairman Davids:

My name is Alan Smith and I serve as senior fellow and Midwest director for the R Street Institute. R Street is a nonprofit 501(c)3 institution devoted to finding pragmatic, free-market solutions to public policy challenges. Since opening our doors in 2012, we have had an active public health project devoted primarily to exploring "harm reduction" approaches to tobacco-control policy. My testimony was prepared in consultation with our senior fellow, Dr. Edward Anselm, who also is medical director for Health Republic Insurance of New Jersey and an assistant professor of medicine at the Mount Sinai School of Medicine

I am here today to share our thoughts about HF 2182, which would change the formulary for taxing "vaping" fluids used in electronic cigarettes.

The proper absolute levels of taxation on tobacco and e-cigarettes are rightly a topic of much debate and discussion. On tobacco, a reasonable tax is certainly justified. Likewise, e-liquid certainly should be taxed in some fashion. As you proceed with evaluating this topic, I hope the committee will take a balanced approach to taxing tobacco products that takes into account the needs of Minnesotans. Many of our residents have made repeated efforts to quit smoking, but find that they still need nicotine in order to function. If it is possible for products to provide these smokers with the nicotine they crave while presenting only a small fraction of the health risks of cigarettes, why penalize these groups' opportunity to live a healthier life with high excise taxes intended as a public policy tool to encourage better behavior?

Electronic cigarettes are a relatively new set of devices that produce a vapor containing nicotine and a small number of other compounds. The number of toxic compounds is substantially less and the concentrations of these compounds is lower than that of cigarettes. No one has stated that these devices are safe, but they are far less-harmful than combusted cigarettes. The harmful effects of combusted smoke are well-documented. The early literature on the effects of passively inhaled vapor does not suggest anything like the same levels of harm, but it remains an active and ongoing research area.

A recent article in the prestigious journal *Science*<sup>1</sup> summarized the contentious internal debate within the tobacco-control community regarding the role electronic cigarettes might play in harm reduction for current smokers. Scientists and public health officers are divided regarding the potential benefits to smokers and the potential harms to adolescents. Some argue that no level of nicotine from any source is acceptably safe, while others contend that, since some set of people are likely to use nicotine, encouraging less harm is better than great harm.

Although the evidence is not perfect, there are several studies that show electronic nicotine-delivery systems can help people quit smoking. These are detailed in a recent Cochrane review,<sup>2</sup> the international compendium of randomized clinical trials. There are thousands of anecdotes from individuals who have ceased smoking and replaced it with vaping.

Taxes are a potent motivator for tobacco use. States with higher taxes on tobacco have a lower prevalence of tobacco-related disease. Given the potential benefit to smokers and the lower level of harm associated with vapor, is it not reasonable to tax electronic cigarettes at a lower rate? This is the position of the American Society for Clinical Oncology and the American Association for Cancer Research, which recently published a strong position paper on electronic cigarettes.<sup>3</sup>

In summary, vapor is not combusted smoke. Given the reduced level of harm, and the potential to benefit current smokers, it should be taxed at a lower rate than regular cigarettes. We offer these thoughts for informational purposes, and neither support nor oppose this specific bill in its particulars.

Respectfully,

Alan Smith  
Midwest Director, R Street Institute

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<sup>1</sup> Amy L. Fairchild and Ronald Bayer, "Smoke and fire over e-cigarettes," *Science*, Vol. 347, Issue 6220, pp. 375-376, Jan. 25, 2015.

<sup>2</sup> Hayden McRobbie, et al., "Electronic cigarettes for smoking cessation and reduction," *The Cochrane Library*, Issue 12, 2014.

<sup>3</sup> Thomas H. Brandon, et al., "Electronic Nicotine Delivery Systems: A Policy Statement From the American Association for Cancer Research and the American Society of Clinical Oncology," *Journal of Clinical Oncology*, Jan. 7, 2015.